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In re Application of

LARES *et al*

U.S. Application No.: 10/533,225

PCT No.: PCT/FI03/00868

Int. Filing Date: 14 November 2003

Priority Date: 27 November 2002

Attorney Docket No.: 043965/291580

For: BOARD PRODUCT AND METHOD OF
MAKING THE SAME

DECISION

This decision is in response to the papers filed 05 September 2007 which are treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 03 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), additional claim fees and a \$130.00 surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 03 May 2006, applicants purportedly filed a response which contained, *inter alia*, an executed declaration and the \$130.00 surcharge fee. The declaration was not located in the file.

On 05 September 2007, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 03 May 2006 and a stamped postcard receipt for the 03 May 2006 documents.

DISCUSSION

It is first noted that the time limit to respond to the Form PCT/DO/EO/905 mailed 03 March 2006 has expired. Several papers filed 03 May 2006 were located in the file including the transmittal letter, specification and claims. Moreover, USPTO financial records indicate that a \$130.00 surcharge fee was received. However, the declaration is not located in the file.

Accordingly, the above-captioned application is hereby **ABANDONED**.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 03 May 2006. The postcard receipt records that among the papers received in the USPTO included a "Declaration and Power of Attorney (2 pages)." The postcard receipt is stamped "Rec'd PCT/PTO 03 MAY 2006" across its face. The U.S. application number, docket number and name of the applicant are all listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 03 May 2006.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The declaration originally filed, 03 May 2006 is in compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the Office of Patent Application Processing for continued processing.



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